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DATE October 17, 2005

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COMPANY United States Patent and Trademark Office

FAX NUMBER 571-273-8300

FROM Brian C. Meadows, Esq.

REFERENCE NO. 03269.0032U1

OUR FAX NUMBER 678-420-9301

NUMBER OF PAGES 4 (including fax cover sheet)

Transmitted herewith are:

1. Election Under Restriction Requirement
2. Certificate of Facsimile Transmission under 37 C.F.R. § 1.8

In Re: U.S. Patent Application No. 10/719,389 of Jeffery J. Wright  
TITLE: "CARPET STRUCTURE WITH PLASTOMERIC FOAM  
BACKING"

ATTY. DOCKET NO. 03269.0032U1

Filing Date: November 20, 2003

ATTY/SEC.: MAK/BCM:odw

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ATTORNEY DOCKET NO. 03269.0032U1  
PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	)	
	)	
Jeffery J. Wright	)	Art Unit: 1771
	)	
Application No. 10/719,389	)	Examiner: Juska, Cheryl Ann
	)	
Filing Date: November 20, 2003	)	Confirmation No. 2578
	)	
For: "CARPET STRUCTURE WITH	)	
PLASTOMERIC FOAM BACKING"	)	

**ELECTION UNDER RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C  
Customer No. 23859

Sir:

This paper is submitted in response to the Office Action mailed on September 16, 2005, in which a Restriction Requirement has been made.

The Examiner requires the Applicants to elect a single invention for prosecution on the merits from one of three patentably distinct inventions believed by the Examiner to be present in the application. The Examiner contends that these three patentably distinct inventions are those of:

- I. Claims 1-8 and 21-30, drawn to a foam cushion, classified in class 428, subclass 304.4;
- II. Claims 9-20 and 31-42, drawn to a carpet or carpet tile, classified in class 428, subclass 95; and
- III. Claims 43-52, drawn to a method for making a cushion backing, classified in class 427, subclass 373.

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**ATTORNEY DOCKET NO. 03269.0032U1**  
**SERIAL NO. 10/719,389**

The Applicants hereby provisionally elect invention I, as set forth in claims 1-8 and 21-30, with traverse.

The Applicants respectfully request that the restriction requirement be reconsidered as it is not shown in the Office Action that a serious burden would be required to examine the pending claims of Inventions I, II, and III, respectively, in the instant patent application. Specifically, M.P.E.P § 803 provides:

If the search and examination of an application can be made without serious burden, the Examiner *must* examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis supplied.*)

Thus, for a restriction requirement to be proper, the following two criteria must be satisfied: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden in the matter. *See* M.P.E.P § 803.

The Office Action has at least not shown that the second requirement has been met. Specifically, it has not been shown that it would be a serious burden to search and examine all of the claims of Groups I, II, and III together. Consequently, reconsideration and modification or withdrawal of the restriction requirement to this extent is respectfully requested.

Should the Examiner have any questions regarding the Applicants' response to the Restriction Requirement, or which may advance the efficient prosecution of the application, the Examiner is courteously invited to contact the undersigned at the telephone number and address listed below.

**ATTORNEY DOCKET NO. 03269.0032U1**  
**SERIAL NO. 10/719,389**

No fee is believed due; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

NEEDLE & ROSENBERG, P.C.



Brian C. Meadows  
Registration No. 50,848

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CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence, including any items indicated as attached or included is being transmitted via Facsimile No. 571-273-8300 to Examiner Cheryl Ann Juska, Group Art Unit 1771, Mail Stop Amendment, U.S. Patent and Trademark Office, on the date shown below.



Brian C. Meadows

Date

10-17-2005